THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.22979 of 1998
Date: 25-06-2007

Between:
K.Srinivasa Rao

Petitioner

And

The Deputy Manager (personnel) II,
APSRTC Managing Director's Office,
Musheerabad, Hyderabad and another

Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.22979 of 1998

ORDER:

1. This writ petition has been instituted seeking directions to the respondents to consider and appoint the writ petitioner as a Security Guard in the Andhra Pradesh State Road Transport Corporation (for short 'the APSRTC) .

2. To cut short a long story, suffice it to refer to the directions issued by this court in the previous round of litigation when W.P.No.5912 of 1996 has been instituted by this petitioner, to the following effect:

> *"Heard the learned counsel for the petitioner. It appears that interests of justice would be served if direction is given to the respondents to consider the petitioner's case for appointment as Security Guard, in future vacancies.*
>
> *Therefore, this writ petition is disposed of with a direction to the respondent-Corporation to consider the petitioner's case for appointment as Security Guard in the respondent Corporation as and when vacancies arises for that post in the corporation. The writ petition is disposed of accordingly. No costs."*

2. In the present writ petition the essential grievance of the writ petitioner is that his case has not been considered for appointment as a Security Guard while trying to consider the candidature of several others who have appeared for selections for recruitment to the posts of Police Constables. The petitioner feels aggrieved by the action of the APSRTC in confining it's selection only to 200 candidates though it intended initially to recruit 900 candidates.

3. In the counter affidavit, it has been pointed out that instead of conducting separate selections for the post of Security Guard, the APSRTC had

requested the Inspector General of Police, Special Police Establishment, to sponsor all such candidates who have appeared for the selections to the posts of Police Constables but were not selected as Police Constables so that their candidature can be considered for recruitment as Security Guards in the APSRTC. The writ petitioner is one of those who went through the selection process for recruitment to the post of Police Constable but was not selected or appointed as a Police Constable. Therefore, he feels that his case should have received appropriate attention at the hands of the respondent corporation. The counter affidavit has specifically asserted that because of his low merit ranking amongst the candidates sponsored by the A.P. Special Police Establishment, the corporation could not select him.

4 But as it transpired now as a measure of compliance with the directions issued in W.P.No.5912 of 1996, the Personnel Officer of the APSRTC through his proceedings dated 13-11-1998 had noted that the writ petitioner had been instructed to appear for selection process for consideration of his case for recruitment as a Security Guard and that he had received telegraphic communication sent by the respondent corporation in this regard on 11.11.1998 and that he had attended the office of the APSRTC on 13.11.1998 at 10.30 hours. But however, the APSRTC had requested the Inspector General of Police, A.P. Special Protection Force, Himayathsagar, Hyderabad to arrange to conduct physical endurance test (One Start Test) to assess the suitability of the writ petitioner for appointment to the post of Security Guard in APSTRC. For achieving this objective, a communication addressed to the Inspector General of Police, A.P. Special Protection Force was asked to be signed by the writ petitioner so that the communication from the APSRTC to the A.P. Special protection Force will carry his specimen signature thereon. It was further noted that the writ petitioner has declined to affix his specimen signature thereon nor was he willing to undergo the selection process at the hands of the A.P.Special Protection Force at Himayath Sagar, Hyderabad, on the precious plea that his case was already assessed for physical endurance test (One Star Test) previously and that he had already come through the same and he had

been one of those short listed for recruitment as Police Constables but he did not ultimately make the grade and that because he was not appointed as a Police Constable, his case was sponsored to the APSRTC on the previous occasion for consideration for recruitment as a Security Guard and therefore, he could not be subjected to this physical endurance test (One Star Test) all over again. The complaint of the writ petitioner is that APSRTC is literally testing his endurance rather than subjecting him to the selection process. Therefore, the present writ petition has been instituted.

5. I have considered the merits of the matter. When he has been sponsored on the previous occasion for recruitment as a Security Guard, he could not end up at the top of the merit list, from out of which 200 candidates have been selected duly following the communal rotation and consequently the APSRTC could not appoint him as a Security Guard . This time around when the writ petitioner's case was taken up for consideration he was asked on 13-11-1998 to undergo the process of selection comprising of physical endurance test of One Star Standard. It is obvious that the APSRTC as an organization does not have the necessary expertise or wherewithal with it to conduct such a physical endurance test of One Star standard. Instead, since the A.P. Special Protection Force has such infrastructural facilities, the APSRTC suggested the writ petitioner to undergo the test there. To make sure that the communication of the APSRTC addressed to the Inspector General of Police, A.P. Special Protection Force, does not fall into wrong hands, the APSRTC has insisted for the writ petitioner to affix his specimen signature thereon so that the same can also be reverified at the receiving end , namely, the establishment of the AP Special Protection Force. Since the writ petitioner had declined to participate in the selection process, as he sought interdiction of the communication dated 13-11-1998 of the APSRTC, no fault can be attributed to the APSRTC for not selecting him or not appointing him as a Security Guard. It is incumbent upon the employer particularly when the recruitment is intended for such posts as security guards to recruit the most physically fit and enduring candidates only. Candidates who do not stay fit up to the standards are not liable or entitled

to seek recruitment. Standards of fitness can vary and therefore, the most relevant examination can only be the one preceding the process of selection/appointment but not necessarily a remote past one. I therefore, cannot find fault with the APSRTC in seeking to have the physical fitness of the writ petitioner verified on 13-11-1998. For the sheer failure of the writ petitioner to undergo the selection process, he alone has to blame and no fault can be attributed to the APSRTC. Therefore, I do not find any merit in this writ petition and accordingly it is dismissed. No order as to costs.

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NOOTY RAMAMOHANA RAO,J

25-06-2007

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